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LETTER DATED 27 JULY 1992 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith the report of the mission of the Executive Chairman of the Special Commission to Iraq. This mission was conducted, as stated in my letter of 15 July 1992 to you, with the aim of securing immediate and unimpeded access to the facility designated by the Commission and Iraq's agreement to fulfil in full all its obligations arising from relevant Security Council resolutions.

(Signed) Boutros BOUTROS-GHALI

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Annex

Report of the mission to Iraq of the Executive Chairman of the Special Commission

INTRODUCTION

1. The present report is submitted to the Security Council, through the Secretary-General, with reference to the letter of 15 July 1992 of the Secretary-General to the President of the Security Council. The mission proceeded as a result of Iraq's refusal on 5 July 1992 and subsequently to allow an inspection team access to a site designated by the Special Commission in accordance with paragraph 9 (b) (i) of Security Council resolution 687 (1991).

I. THE MISSION

2. The Executive Chairman of the Special Commission, Mr. Rolf Ekéus, was accompanied by Mr. Douglas Englund, Mr. Tim Trevan and Ms. Alice Hecht.

II. ITINERARY AND MEETINGS

3. The Executive Chairman arrived in Baghdad on 17 July 1992. He held two meetings with the Minister of State for Foreign Affairs on 18 July 1992 and meetings with the Minister for Foreign Affairs and the Deputy Prime Minister the next day. The Executive Chairman departed immediately thereafter.

4. The meetings were attended on the Iraqi side by the following:

18 July 1992

9 a.m.-12 noon and 6-9 p.m.

Mr. Mohammed Al-Sahhaf	Minister of State for Foreign Affairs
Dr. Homad Abdul Khaliq	Chairman of the Atomic Energy Commission of Iraq
Gen. Amer Muhammad Rashid	Military Industrial Corporation
Mr. Nizah Hamdun	Undersecretary, Ministry for Foreign Affairs and Permanent Representative designate of Iraq to the United Nations

19 July 1992

(a) 9.30-11 a.m.

Mr. Ahmed Hussein	Minister for Foreign Affairs
Mr. Nizah Hamdun	Undersecretary, Ministry for Foreign Affairs and Permanent Representative designate of Iraq to the United Nations

(b) 11.30 a.m.-2 p.m.

Mr. Tariq Aziz	Deputy Prime Minister
Mr. Nizah Hamdun	Undersecretary, Ministry for Foreign Affairs and Permanent Representative designate of Iraq to the United Nations

III. INITIAL PRESENTATION BY THE MISSION

5. In the meetings, the Executive Chairman informed the above-mentioned persons about the letter of 15 July 1992 from the Secretary-General to the President of the Security Council, which stated that the purpose of the visit was to secure immediate and full access to the facility (in Baghdad) designated by the Special Commission and to obtain Iraq's undertaking to implement all its obligations under all relevant Security Council resolutions.

6. The Executive Chairman stated that the location had been designated because the Special Commission had a well-founded concern that the facility contained material of relevance to section C of Security Council resolution 687 (1991). The inspection team dispatched by the Special Commission had on 5 July 1992 requested access to the facility. The refusal by Iraq to allow the inspection was in contravention of a clear and absolute legal obligation of Iraq under resolutions 687 (1991) and 707 (1991).

7. The Executive Chairman recalled the statement of 6 July 1992 (S/24240) by the President of the Security Council on behalf of the members of the Council. In the statement the members of the Council described Iraq's refusal to allow access as a material and unacceptable breach of the provisions of resolution 687 (1991), which established the cease-fire. The members had furthermore demanded that Iraq immediately agree to the admission to the facilities of the inspectors of the Special Commission. The Executive Chairman reiterated that demand. If the situation were not rectified, a new legal situation as regards the cease-fire arrangement might be created. The obstruction by Iraq amounted to a challenge to the authority of the Security Council. The Executive Chairman emphasized that Iraq's non-cooperative attitude in that case delayed the implementation of the relevant resolution and further postponed the date at which the Special Commission could report that Iraq was in essential compliance with its obligations. He deemed the

present situation as grave and expressed a warning that it could lead to serious, even tragic consequences for Iraq. That was wished by no one.

IV. IRAQ'S RESPONSE TO THE REPRESENTATION BY THE MISSION

8. At each of the four meetings, the Iraqi representatives presented a coordinated view of their position. Iraq's legal argument was that the Security Council resolutions under Chapter VII of the Charter of the United Nations could not be invoked to impose against the will of a Member State conditions that infringed on its national sovereignty. Consequently, Iraq did not accept that Security Council resolutions 687 (1991) and 707 (1991) placed an obligation on Iraq to provide unimpeded access to the Special Commission to any place in Iraq.

9. The matter of international inspection of a ministerial building was of symbolic importance. Such a building symbolized the sovereignty of Iraq. That was the reason why access had been denied to the designated facility, which was the headquarters of the Ministry of Agriculture and Irrigation. To permit inspection of the Ministry building would create a precedent on access to central ministry buildings and other politically sensitive sites, which was unacceptable as an infringement of Iraq's sovereignty.

10. The Iraqi representatives furthermore stated that the building contained nothing related to items and activities prohibited under section C of resolution 687 (1991).

11. The Iraqi representatives declared that, if the Commission would go along with a solution acceptable to Iraq, the Commission could continue all its activities in Iraq normally. To the views put forward, the Chairman responded that:

(a) Iraq's legal justification must be rejected as it did not conform with the Charter of the United Nations, Article 2 (7). Resolutions 687 (1991) and 707 (1991), as well as 715 (1991), had all been adopted under Chapter VII and were therefore under all circumstances binding on Iraq;

(b) The Special Commission had under the resolutions been given far-reaching rights. Those rights were however used with greatest circumspection and with respect for the legitimate concerns Iraq could have. The Commission's policy was to respect Iraq's sovereignty and integrity to the fullest possible extent;

(c) The refusal of Iraq to allow the Commission to verify Iraq's denial of the existence in the facility of anything of relevance to prohibited items under resolution 687 (1991) further deepened the concerns of the Commission.

V. DISCUSSION OF MODALITIES

12. Although the representatives of Iraq reiterated the Government's basic position, the Deputy Prime Minister also entered into a discussion of modalities to find what he called an honourable solution to the problem. He proposed that a team of weapons experts from neutral and non-aligned countries within the Security Council would be allowed to conduct, independent of the Special Commission, a full inspection of the premises.

13. The inspection should not be carried out under the Security Council resolutions but the team could report independently of the Commission to the Council. After Mr. Ekéus had pointed out that the idea of engaging the Security Council as an operational third party in addition to the Special Commission and the Government had already been proposed by the Government at the Security Council meeting on 11 and 12 March 1992 and been firmly rejected, the Deputy Prime Minister modified the proposal to encompass any neutral or non-aligned country.

14. The Exeuctive Chairman responded that the idea could be considered provided (a) that the inspection took place under the auspices of the Security Council resolution and (b) that the experts were approved as competent and thoroughly trained and briefed by the Commission. The Commission could also replace the present team of inspectors with a new team.

15. The Deputy Prime Minister could not accept any of that. Mr. Ekéus declared that the Government's proposal was unacceptable to the Commission and that he was convinced that the Council would reject it. He therefore advised against presentation of the proposal but promised, if the Iraqi side insisted, to bring it to the Council's attention.

16. However, to avoid a confrontation and bring an end to the impasse which would be an honourable solution, Mr. Ekéus outlined other procedures for determining whether the facility contained anything related to Security Council resolution 687 (1991). The Iraqi reaction to those suggestions was non-conclusive.

VI. SAFETY OF PERSONNEL

17. The Executive Chairman raised the issue of staff security. The present situation was unacceptable. There had been a number of attacks on the personnel and vehicles of the United Nations Special Commission (UNSCOM) that had the mark of a centrally coordinated campaign. That was an undertaking made by Iraq in the exchange of letters between the United Nations and Iraq of 14 May 1991. Iraq had responsibility for protecting UNSCOM personnel and property. Iraq replied that those incidents were the expression of the Iraqi peoples' frustration at the United Nations because of sanctions. Iraq was sincere in its desire to protect UNSCOM. Security arrangements would be redoubled but, given the strength of feeling amongst the populace, the authorities could not guarantee that they would at all times be able to ensure the safety of Commission personnel.

VII. OTHER ISSUES

18. The Iraqi side made complaints to the effect that the Special Commission's reporting had been unbalanced, that too many United States citizens had been included in the inspection teams and that the Commission had intensifed the use of helicopters in Iraq.

19. The Executive Chairman responded that the complaints about the reporting were unfounded as the Commission's reports to the Security Council about Iraq's compliance with the relevant provisions contained a complete presentation of achievements and results for the period covered. That was, however, always juxtaposed to a presentation of shortcomings and remaining outstanding issues.

20. The need for specialized expertise available in the categories of biological, chemical, nuclear weapons and missiles made it necessary to turn to the very small number of States having enough knowledge in those fields, hence the Commission had at many occasions to make use of experts from the United States, which had considerable competence with regard to the relevant weapons.

21. The increased use of helicopter surveillance was intended to cover a large number of sites and to prepare for the future monitoring and verification of Iraq.

VIII. FINDINGS OF THE MISSION OF THE EXECUTIVE CHAIRMAN

22. The mission of the Executive Chairman failed to obtain for the inspection team outside the Ministry of Agriculture the full and unimpeded access demanded in the statement of 6 July 1992 of the President on behalf of the members of the Security Council. Nor did it obtain Iraq's agreement to fulfil all its obligations under all the relevant Council resolutions. It obtained from Iraq a proposal for access to the site for independent experts to ascertain if it contained any materials of relevance to Security Council resolution 687 (1991), but had to note that the proposal could be subject to serious consideration if the inspection took place under the auspices of the Security Council and that the experts were approved as competent and trained and briefed by the Commission. Other approaches for bringing an end to the stand-off were considered.